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11 Apr 78

MEMORANDUM FOR: Director of Central Intelligence

STAT FROM:   
Acting Legislative Counsel

SUBJECT: Your Meeting Scheduled for 12 April 1978  
with Mr. Vincent Davis

REFERENCE: Letter Addressed to You from Mr. Davis dated 29 March 1978

AT 1.  Action Requested: No action requested; for your information only.  
This memorandum provides you with some points relating to the intelligence  
AT charter legislation that you may wish to discuss with Mr. Davis.

AT 2.  Background: In his letter to you, Mr. Davis says he has  
been invited to testify on S. 2525, the intelligence charter legislation,  
by Senator Walter Huddleston (D., Ky.). Mr. Davis indicates he would be  
willing to incorporate in his testimony issues that you would like to  
see raised regarding the charter legislation.

Inasmuch as we are in the process of developing Administration positions  
on the charter legislation, it would seem inappropriate for you to impart  
to Mr. Davis your views on the legislation for him to raise in his testimony;  
if he were to do this, he would in a sense be acting as your "surrogate" and  
could be considered "lobbying" on your behalf. However, it would not seem  
at all inappropriate if you discuss with Mr. Davis charter legislation in  
general and include a discussion of your concerns with the charter legislation  
and your ideas as to what should be included in the legislation. You are  
certainly entitled to have your own views on the legislation, and Mr. Davis  
is likewise entitled to address in his testimony whatever he deems appropriate.

With this background the following notes are provided as possible issues  
which you may want to discuss with Mr. Davis:

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--It is important that the legislation afford due recognition of the prerogatives of the Executive Branch in providing information to the Congress; in this regard, for example, provision for prior reporting to the Congress as to certain categories of activities may very well conflict with those prerogatives.

--The legislation must continue to recognize that the Government must have the capability to conduct "special activities" in certain circumstances; moreover, the legislation should not--as S. 2525 arguably does--impose such detailed and extensive requirements on the initiation and conduct of special activities so as to almost completely diminish the possibility of maintaining the confidentiality of such activities.

--Executive Order 12036 is only some ten weeks old; a conscious effort must be made to determine the workability of the provisions in the Executive Order, to identify where the requirements and procedures contained therein are adequate and where there are problems.

--It is certainly important that the charter legislation recognize, if not explicitly then certainly by implication, rights of U.S. citizens; care should be taken, however, to ensure that such recognition does not completely engulf the need to engage in counterintelligence and certain intelligence activities within the U.S. and regarding U.S. officials.

--Efforts to legislate a listing of specific restrictions on activities, as S. 2525 does, can be extremely problematic; careful consideration should be given to whether this is either workable or appropriate.

--Limitations, as to duration and techniques regarding counterintelligence and intelligence activities in the U.S., such as those contained in Title II of S. 2525, if they are to remain in the legislation, must be developed on the basis of practical considerations rather than mere theoretical views of what intelligence activities should be.

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